



SUMMARY

Case: Brodav Limited & Cook Family Trust v Waters & Ors – FINAL DECISION

File No: TRI 2008-101-000059 & 66/ DBH 05133 & 5488

Court: WHT

Adjudicator: CB Ruthe

Date of Decision: 13 August 2009

Background

This claim was resolved by consent orders. However at the time the orders were made, there was no determination sought pursuant to section 90(2) of the Weathertight Homes Resolution Services Act 2006.

Summary of Facts

The first respondents agreed to carry out the work including the obtaining of a permit. The building permit was to be applied for within 2 weeks of the settlement date being 23 February 2009. The work was then to be completed within 6 weeks of the issue of the permit. This work was to be done with the assistance of the seventh respondent.

The first respondents failed to carry out they work they agreed to do including the obtaining of a permit.

There was a subsequent teleconference whereby the first respondents stated they were about to file the work permit and to complete the work. However this still has not been done.

Claim

The claimants sought an order for the amount of \$30,000 being the amount quoted to repair the house by the claimants' builder due to the failure of the first respondents to carry out the agreed work.

Summary of Decision

Section 90(2) requires that if the Tribunal makes an order requiring a person to take any action other than the payment of money, the Tribunal must also to make a monetary order pursuant if the relevant party fails or refuses to take the action ordered.

The claimants acknowledged that \$10,000 has already been paid to the Cook Family Trust by way of settlement with the second and third respondents. The Tribunal therefore ordered that the first and seventh respondents pay the sum of \$20,900 to the claimants pursuant to section 90(2).